

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-12538-2021(O&M)

Date of decision : 03.11.2021

Labh Singh @ Kaka

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Ram Kumar Saini, Advocate
for the petitioner.

Mr.Praveen Bhadu, AAG, Punjab.

Mr.Pranjal P. Chaudhary, Advocate
for respondent no.2.

VIKAS BAHL, J.(ORAL)

CRM-27783-2021

This is an application under Section 482 Cr.P.C. praying for preponment of the date of hearing of the main petition which is stated to be listed on 02.12.2021 on the ground that matter has been compromised.

Notice in the application.

Learned State counsel as well as counsel for the complainant have submitted that they have no objection in case the matter is preponed as the matter has been compromised.

Accordingly, the present application is allowed and the main petition is preponed from 02.12.2021 to today. The main petition is taken up

CRM-M-12538-2021

This is a petition under Section 482 Cr.P.C. praying for quashing of case FIR No.121 dated 30.07.2020 (Annexure P-1) registered under Sections 406, 420 IPC and Section 10 of the Emigration Act, 1983 at Police Station Radaur, District Yamunanagar and all other consequential proceedings arising therefrom on the basis of compromise deed dated 26.02.2021 (Annexure P-2).

On 26.03.2021, a co-ordinate Bench of this Court has passed the following order:-

“Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.

*Prayer in the petition under Section 482 Cr.P.C. is for quashing of FIR No.121 dated 30.07.2020, registered under Sections 406, 420 IPC, 1860 and Section 10 Emigration Act, 1983 at Police Station Radour, District Yamunanagar, along with all consequential proceedings emanating therefrom, on the basis of compromise, Annexure P/2 dated 26.02.2021, as well as the decision of Hon’ble the Full Bench of this Court in **Kulwinder Singh Versus State of Punjab 2007(3) RCR (Criminal) 1052.***

Notice of motion.

Mr.Vivek Chauhan, Additional Advocate General, Haryana, accepts notice on behalf of respondent No. 1 and states that he does not wish to file reply in view of amicable settlement of the dispute amongst the parties vide compromise, Annexure P/2 dated 26.02.2021 as well as the judgment cited by learned counsel for the petitioners.

Ms. Pranjal Chaudhary, Advocate learned counsel accepts notice and puts in appearance on behalf of respondent No.2 and states that she has no objection, if

the aforementioned FIR and all consequential proceedings emanating therefrom are quashed in view of compromise, Annexure P/2 dated 26.02.2021 as well as the judgment cited by learned counsel for the petitioners.

Accordingly, in view of the position as noted above, the parties are directed to put in appearance before the learned Illaqa Magistrate/ Duty Magistrate concerned for recording of their statements in terms of compromise Annexure P/2 dated 26.02.2021 on 20.04.2021, or any other date thereafter, convenient to the learned Illaqa Magistrate/ Duty Magistrate concerned.

Report regarding genuineness of the compromise as also whether any other person(s) has/ have been nominated as accused and whether any person(s) has / have been declared proclaimed offender, whether challan has been filed, whether there is any cross case etc. be filed before this Court by the next date.

List on 12.05.2021.

Reply, if any, be filed in the meantime.”

In pursuance to the said order, a report has been submitted by the Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhari. The relevant portion of the said report is reproduced hereinbelow:-

“4. After considering the oral submissions and written statements made by the parties, I am satisfied that the compromise between the parties has been effected with their free volition and the same is not the result of any undue influence or pressure. Statements of the parties have been recorded, in which they have been duly identified by their respective counsels. The parties have relied upon their identity card for identification, copies of which are placed on record.

5. It is further submitted that as per report of Investigating Officer, Police Station Radaur and as per

FIR, no other person (accused already named in FIR) has been nominated as accused. It is mentioned here that the name of accused mentioned in the FIR is Sukhdev. However, the complainant has stated in his statement that mistakenly he has given the wrong name of accused as Sukhdev but his real name is Labh Singh @ Kaka. H stated that Labh Singh @ Kaka and Sukhdev same and one person.

6. *As per report of Investigating Officer, Police Station Radaur, no accused has been declared as proclaimed offender in the present FIR.*

7. *Further, as per report of Investigating Officer, Police Station Radaur, no challan has been filed in the present FIR against any accused as the investigation is stated to be pending.*

8. *Further, as per report of Investigating Officer, Police Station Raduar, no cross case is reportedly pending between the petitioner and complainant. Report of Investigating Officer is Annexure D.*

9. *Submitted please. ”*

A perusal of the said report would show that the compromise effected between the parties is without any undue influence or pressure and the same has been entered into by their free will.

Learned counsel for the petitioner has submitted that there is no other FIR against the petitioner and he was not declared proclaimed offender in the present case.

Learned counsel for the State as per instructions has stated that aforesaid fact is correct and he has no objection in case the FIR is quashed on the basis of compromise.

Learned counsel for respondent no.2 has again reiterated that

the persons and would help in bringing out peace and amity between the parties. He prayed that FIR and subsequent proceedings may be quashed.

As per the Full Bench judgment of this Court in “***Kulwinder Singh and others Vs State of Punjab***”, 2007 (3) RCR (Criminal) 1052, it is held that High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the prosecution where the High Court feel that the same was required to prevent the abuse of the process of law or otherwise to secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

Hon'ble the Apex Court in the case of “***Gian Singh Vs. State of Punjab and another***”, 2012 (4) RCR (Criminal) 543, had also observed that in order to secure the ends of justice or to prevent the abuse of process of Court, inherent power can be used by this Court to quash criminal proceedings in which a compromise has been effected. The relevant portion of para 57 of the said judgment is reproduced hereinbelow:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. XXX---XXX”

This Court has heard the learned counsel for the parties and has perused the file. After perusing the report submitted by the learned trial Court, this Court finds that the matter has been amicably settled between the petitioner and the complainant. Since the matter has been settled and the parties have decided to live in peace, this Court feels that in order to secure the ends of justice, the criminal proceedings deserve to be quashed.

In view of what has been discussed hereinabove, this petition is allowed and FIR No.121 dated 30.07.2020 (Annexure P-1) registered under Sections 406, 420 IPC and Section 10 of the Emigration Act, 1983 at Police Station Radaur, District Yamunanagar and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

(VIKAS BAHL)
JUDGE

November 03, 2021

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No